

# ***Certification of Consistency***

**Certification ID: C20189**

## **Step 1 - Agency Profile**

**A. GOVERNMENT AGENCY:**

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State Agency

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Local Agency

Government Agency: County of Sacramento  
Primary Contact: Marianne Biner  
Address: 827 7th St, Room 225  
City, State, Zip: Sacramento, Ca 95814  
Telephone/Fax: 916-874-7520 /  
E-mail Address: newtonju@saccounty.net

**B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:**

☒

Will Carry Out

☒

Will Approve

☐

Will Fund

## Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☒ Plan ☐ Program ☐ Project

Title: South Sacramento Habitat Conservation Plan

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: Marianne Biner  
Address: 827 7th St, Room 225  
City, State, Zip: Sacramento, Ca 95814

C. AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☐ YES ☒ NO ☐ N/A

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

See the uploaded South Sacramento Habitat Conservation Plan Covered Action Summary. The complete proposed Action/Proposed Project description can be found in the SSHCP EIS/EIR. The EIS/EIR contains the description of the covered activities included in the SSHCP, the description of the Avoidance and Minimization Measures (AMMs). [SSHCP Covered Action Summary.pdf](#)

E. STATUS IN THE CEQA PROCESS: NOD has been filed

F. STATE CLEARINGHOUSE NUMBER: 2008062030  
(if applicable)

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 1/1/2019 ANTICIPATED END DATE: (If available) 12/31/1969

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$857,600,000.00

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM: NA

J. SUPPORTING DOCUMENTS:

# Step 3 - Consistency with the Delta Plan

## DELTA PLAN CHAPTER 2

### G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

#### Specific requirements of this regulatory policy:

##### Mitigation Measures (23 CCR SECTION 5002 (b), (2))

- a. The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

#### Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: Please see uploaded Conformance Analysis of AMMs Under the SSHCP and Delta Stewardship Council Mitigation Measures the SSHCP is consistent with the Delta Plan. [Consistency Analysis of SSHCP AMM and Delta Plan mitigation measures 11.6.18.pdf](#)

##### Best Available Science (23 CCR SECTION 5002 (b), (3))

- b. The covered action documents use of best available science as relevant to the purpose and nature of the project.

#### Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: Please see the uploaded SSHCP EIS/EIS and SSHCP Conservation Strategy (Chapter 7), Biological Resources Setting (Chapter 3), and Appendix B, Species Accounts, along with the SSHCP Monitoring and Management (Chapter 8). Chapter 8 describes the framework of the SSHCP Compliance and Avoidance and Minimization Measure (AMM) Monitoring Program (Section 8.2) and the framework of the SSHCP Preserve System Monitoring and Management Program (Section 8.3). The purposes of these programs are to ensure compliance with all requirements of the SSHCP, The implementation of the Monitoring and Management Program will ensure that the best available science will be used and therefore the SSHCP would be consistent with the Delta Plan. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

##### Adaptive Management (23 CCR SECTION 5002 (b), (4))

- c. The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

#### Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification:

Please see uploaded EIS/EIR and the SSHCP Monitoring and Management Program which outline the SSHCP's planning, implementation, and monitoring actions in support of adaptive management. Chapter 8 of the SSHCP sets out the Monitoring and Management Program. This chapter describes the framework of the SSHCP Compliance and Avoidance and Minimization Measure (AMM) Monitoring Program (Section 8.2) and the framework of the SSHCP Preserve System Monitoring and Management Program (Section 8.3). The Monitoring and Management Program will integrate monitoring and adaptive management into one cohesive program where monitoring will inform and change management actions to continually improve outcomes for Covered Species and natural land cover types. Section 8.2.1 of the SSHCP, requires an evaluation of the effects of preserve management actions and collection and compiling compliance monitoring information. The compliance monitoring approaches proposed in Table 8-1 of the SSHCP are subject to change based on outcomes of adaptive management, as directed in the Five-Point Policy: "An effective monitoring program is flexible enough to allow modifications, if necessary, to obtain the appropriate information." Consistent with the Five-Point Policy, Section 8.3.4.1 of the SSHCP specifies the preserve adaptive management tasks, including incorporating hypothesis testing and experimental land-management to address key uncertainties, evaluating monitoring protocols, incorporate new and best available scientific information, refining Covered Species habitat locations in the Plan Area, examining unexpected results of monitoring studies to understand the reason, further adjust Preserve management actions and monitor the results of those adjustments, and refining success criteria for re-established and established land cover types during Phase 1 of monitoring. The phases of monitoring (Section 8.3.3.1), including a programmatic review of the adaptive management program, focusing on monitoring techniques, assessment of reserve management practices and an overall assessment of the effectiveness of the operating Conservation Program. Each review will assess the effectiveness of the Plan in achieving all of the Biological Goals and Measureable Objectives. These reviews are integral to the process of adaptive management. A programmatic review will occur every 5 years for the permit duration (i.e., 50 years) coinciding with the 5-year Annual Report (Section 8.4.1) and every 10 years after that in perpetuity. The first review will assess the results of the initial tests of the monitoring protocols, use these results to modify monitoring as necessary in Phase 2, and further define biologically meaningful performance criteria and significance thresholds. Data from the intensive monitoring during reviews in years 10 and 15 will be used to further refine performance criteria and significance thresholds. The final review in year 45 will assess the effectiveness of the Plan in achieving all of the Biological Goals and Measureable Objectives. After this review, review frequency will decrease to every 10 years in perpetuity. This frequency will allow for three monitoring cycles during the Long-Term Monitoring Phase. All reviews will summarize the results of special studies and incorporate results into the Preserve System Monitoring and Management Program. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

### DELTA PLAN CHAPTER 3

#### [WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?



YES



NO



N/A

Answer Justification:

Sacramento County Water Agency is one of the SSHCP Plan Permittees which has plans for additional water supply projects. Other entities may also propose supply projects and these may be treated by the Implementing Entity as a Participating Special Entity. Covered Activities considered by the SSHCP and the EIS/EIR were the following water facilities: Construction and installation of new potable and recycled water supply facilities (e.g., pumping stations; water treatment facilities; storage facilities; reclamation facilities; and groundwater wells, valves, gates, weirs, and pipelines), extension of existing water pipelines, and removal and maintenance of existing water supply facilities. While there are no specific new water supply projects proposed, there are a number of water recycling facilities including a project that is within the area where the SSHCP overlaps with the Delta Plan. Water recycling is identified in WR P1/23 CCR Section 5003 (c)(2) as a project or program that would reduce reliance on the Delta. The SSHCP has included low impact development AMMs (see Condition 1, section 5.4.1 of the SSHCP) that will require the provision of BMPs and low-impact development (LID) drainage control measures to ensure that runoff from developed lands will closely mimic the pre-development hydrograph and retain most pre-development hydrologic functions, thus mitigating potential impacts to water supply and water quality. The Cover Actions would either not increase reliance on the Delta or would, as in the case of the proposed water recycling project, decrease reliance on the Delta. Therefore, the SSHCP would be consistent with the Delta Plan. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

#### **WR P2 / 23 CCR SECTION 5004 - Transparency in Water Contracting**

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification:

There is no relationship between the SSHCP and water contracting. New infrastructure projects (e.g., water supply, sewer, roadways) located outside the UDA are not covered by the SSHCP permits, unless the project is specifically identified in Section 5.2.3, Rural Transportation Projects, or Section 5.2.4, Recycled Water Projects (SSHCP, 5-62).

#### **DELTA PLAN CHAPTER 4**

##### **Conservation Measure: (23 CCR SECTION 5002 (c))**

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES

☒ NO

☐ N/A

Answer Justification:

SSHCP is a conservation measure that was developed by a local government in the Delta; however, the measure was not approved and permitted by CDFW prior to May 2013. Therefore the certification of consistency must complete this chapter of the form.

#### **ER P1 / 23 CCR SECTION 5005 - Delta Flow Objectives**

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

The SSHCP includes AMM LEVEE-1 (Preparation of Hydrologic Analysis). The Hydrologic Analysis is required to fulfill CWA 404 regulations to consider flow alterations and related potential indirect impacts, such as effects of flows to downstream properties. Implementation of the Aquatic Resources Program and LEVEE-1 would minimize the potential to impact to Delta Flow Objectives and therefore would be consistent with the Delta Plan ER P1 / 23 CCR Section 5005 [Final SSHCP Vol. 1.pdf](#)

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**ER P2 / 23 CCR SECTION 5006 - Restore Habitats at Appropriate Elevations**

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

Please see the uploaded SSHCP which includes the AMMs (Chapter 5, Section 5.4); the SSHCP Biological Goals and Measurable Objectives (Chapter 7, Table 7-1), including the development of the Preserve System (Chapter 7, Section 7.4); monitoring and adaptive management programs (Chapter 8), and an Aquatic Resources Program (Appendix I of the EIS/EIR). The goal of the SSHCP Conservation Strategy is to meet the regulatory requirements of the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA), and as discussed in Chapter 1, to “streamline” compliance of third-party projects with Sections 401 and 404 of the Clean Water Act (CWA), with Section 1600 of the California Fish and Game Code, and the California’s Porter-Cologne Water Quality Control Act. The SSHCP Conservation Strategy mitigates to the maximum extent practicable the impacts of Covered Activities described in Chapter 6, Effects Assessment and Level of Take, including all direct and indirect impacts on Covered Species and their habitats (emphasis added). The SSHCP Conservation Strategy provides for conservation of 28 Covered Species and 17 land cover types; avoids or minimizes impacts of Covered Activities; mitigates for the impacts of Covered Activities on the Covered Species and their habitats on the basis of species and habitat needs; provides a regional approach to the mitigation of impacts and the conservation of species and their habitats; protects wetlands and waters of the Plan Area; and conserves natural communities in the Plan Area. The Conservation Strategy and its associated elements provided the groundwork for future habitat restoration and preservation which would, at minimum, not preclude restoration efforts at the appropriate elevations and more likely support the restoration at the appropriate elevation. As such, in accordance with Section 5006 the SSHCP is consistent with the Delta Plan. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

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**ER P3 / 23 CCR SECTION 5007 - Protect Opportunities to Restore Habitat**

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

See uploaded EIS/EIR for the SSHCP. The covered actions listed in the SSCCP include AMMs to avoid impacts to threatened and endangered species and for the creation of preserves of associated habitats. The SSHCP would not preclude any habitat restoration efforts and as such would protect those opportunities. Therefore the SSHCP is consistent with the Delta Plan ER P3 / 23 CCR Section 5007. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

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**ER P4 / 23 CCR SECTION 5008 - Expand Floodplains and Riparian Habitats in Levee Projects**

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

The covered activities within the area of overlap with the Delta Plan does not construct new levees or substantially rehabilitate or reconstruct existing levees, or expand the floodplain. Habitat restoration activities could involve the enhancement of riparian areas in the vicinity of existing levees, as future habitat acquisition or improvement projects are carried out in PPU-6. As part of avoidance and minimization measures of the SSHCP there is AMM (LEVEE-1) to avoid and minimize impacts that might result from removing or breaching levees to establish or re-establish riparian habitat in meeting Objectives RIP1 and RIP2. Although there are no levee projects to re-establish riparian habitats at this time if such projects occur in the future the SSHCP would be consistent with the Delta Plan. [Final SSHCP Vol. 1.pdf](#)

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**ER P5 / 23 CCR SECTION 5009 - Avoid Introductions of and Habitat for Invasive Nonnative Species**

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

The SSHCP Conservation Strategy and the associated AMMs reduce or avoid impacts to threatened and endangered species and the preservation of associated habitats. The AMMs include a specific measure regarding Invasive Species: EDGE-10 (Prevent Invasive Species Spread): Completed Covered Activities (including roads) will be maintained in a manner that avoids the spread of invasive species into Preserve and Open Space areas. The institution of the AMMs, the development of the preserves and monitoring program (as described in Chapter 8 of the SSHCP) would avoid the introductions of invasive, nonnative species, and would not create habitat for such species. Therefore the SSHCP would be consistent with the Delta Plan ER P5 / 233 CCR Section 5009. [Final SSHCP Vol. 1.pdf](#)

## DELTA PLAN CHAPTER 5

### [DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification:

Within the area of the Delta Plan the covered activities do not involve new residential, commercial, or industrial development. The SSHCP has been designed to direct urban growth to areas inside the UDA, in proximity to existing urban levels of development and services, while protecting areas of high quality resources inside and outside of the UDA. Residential, commercial or industrial development inside the UDA is consistent with the General Plans of Sacramento County and the Cities of Rancho Cordova and Galt, which have land use authority. Therefore, with review by the Land Use Authority Permittees, future urban development within the UDA of the SSHCP would be consistent with Delta Plan Chapter 5. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#), [Final EIS-EIR Volume I EIS-EIR.pdf](#), [Final SSHCP EIS-EIR Volume II Appendices.pdf](#)

### [DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification:

Responsibility for implementing the permitted SSHCP would jointly rest with all Permit Applicants. SSHCP implementation would be directed by the SSHCP Implementing Entity, a Joint Powers Authority composed of the Sacramento County, Galt, and Rancho Cordova (the Land Use Authority Applicants). Land Use Authority Permittees will review and approve designs to ensure that they include all appropriate SSHCP design and construction AMMs and provisions in each General Plan. As such the SSHCP would respect local land use and would be consistent with the Delta Plan. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#)

## DELTA PLAN CHAPTER 7

### [RR P1](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification:

The covered activities do not involve discretionary State investments in Delta flood risk management including levee operations, maintenance, and improvements within the area of overlap with the Delta Plan.

### [RR P2](#) - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification:

The Delta Plan includes the following requirement “New residential development of five or more parcels shall be protected through floodproofing to a level 12 inches above the 100-year base flood elevation, plus sufficient additional elevation to protect against a 55-inch rise in sea level at the Golden Gate, unless the development is located within areas that city or county general plans, as of May 16, 2013, designate for development in cities or their spheres of influence.” The SSHCP is not a land use plan that will allow for residential development of five or more parcels rural areas covered by the Delta Plan. Therefore, this regulatory policy is not applicable to the SSHCP

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**RR P3 - Protect Floodways**

**Is the covered action consistent with this regulatory policy?**

☒ YES

☐ NO

☐ N/A

Answer Justification:

The Delta Plan includes the following restriction “No encroachment shall be allowed or constructed in a floodway, unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.” The covered activities that would take place within the Delta Plan area (recycled water project and Twin Cities roadway improvements) would not impede the free flow of water in the floodway or jeopardize public safety. Any preserve areas within the Delta Plan area would be subject to AMM LEVEE-1 which states: “Prior to approving a draft Preserve Management Plan that includes (1) modifying or breaching an existing levee, or (2) would place a potential impedance to high-water event flood-flows on the water side of an existing levee (including new riparian vegetation plantings or other new Preserve facilities), a hydrologic analysis will be conducted. The Preserve activity will only be implemented if the hydrologic analysis concludes that the activity will not result in a substantial increase in flood stage elevations or flood risk on lands outside the Preserve.” Therefore the SSHCP is consistent with the Delta Plan PR P3 / CCR Section 5014. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#)

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**RR P4 - Floodplain Protection**

**Is the covered action consistent with this regulatory policy?**

☒ YES

☐ NO

☐ N/A

Answer Justification:

The SSHCP area includes portions of the Cosumnes River-Mokelumne River Confluence and would be subject to the Delta Plan’s restriction on encroachment of the floodplain. The covered activities that would take place within the Delta Plan area (recycled water project and Twin Cities roadway improvements) would not result in an encroachment on the floodplain. Any preserve areas within the Delta Plan area would be subject to AMM LEVEE-1 which states: “Prior to approving a draft Preserve Management Plan that includes (1) modifying or breaching an existing levee, or (2) would place a potential impedance to high-water event flood-flows on the water side of an existing levee (including new riparian vegetation plantings or other new Preserve facilities), a hydrologic analysis will be conducted. The Preserve activity will only be implemented if the hydrologic analysis concludes that the activity will not result in a substantial increase in flood stage elevations or flood risk on lands outside the Preserve.” Therefore, the SSHCP is consistent with the Delta Plan PR P3 / CCR Section 5014. Therefore the SSHCP would be consistent with Delta Plan PR P3 / CCR Section 5015. [Final SSHCP Vol. 1.pdf](#), [Final SSHCP Vol. 2 Appendices.pdf](#)